

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.301.138,) ON PROPOSED AMENDMENT,
24.301.146, 24.301.161,) ADOPTION AND REPEAL
24.301.172, 24.301.209,)
24.301.301, 24.301.401,)
24.301.421, 24.301.431,)
24.301.441, 24.301.451,)
24.301.461, 24.301.481,)
24.301.501, 24.301.558,)
24.301.711, 24.301.718,)
and 24.301.801,)
the proposed adoption of)
NEW RULES I through IX, and)
the proposed repeal of ARM)
24.301.471, 24.301.601,)
24.301.612, 24.301.613,)
24.301.614, 24.301.615,)
24.301.621, and 24.301.622,)
pertaining to building codes)

TO: All Concerned Persons

1. On November 18, at 10:00 a.m., a public hearing will be held in the auditorium of the Scott Hart Building, 301 North Roberts Ave., Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Building Codes Bureau of the Department of Labor and Industry (BCB/DOLI) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m., November 14, to advise us of the nature of the accommodation that you need. Please contact Ms. Traci Collett at P.O. Box 200517, Helena, Montana 59620-0517; (406) 841-2062 (telephone); (406) 841-2050 (fax); (406) 841-0532 (TTD); or, tcollett@mt.gov (e-mail).

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.301.138 CALCULATION OF FEES (1) through (1)(b) remain the same.

~~(c) For the period between January 1, 2003, and December 31, 2004, both the building permit fee and plan review fee shall be reduced by 35%. Upon written application to the department, on forms as prescribed by the department, a refund of the 35% reduction shall be given to the project owner.~~

(d) remains the same but is renumbered (c).

(2) through (8) remain the same.

AUTH: 50-60-104, 50-60-203, MCA
IMP: 50-60-103, 50-60-104, 50-60-203, MCA

REASON: It is reasonably necessary to amend this rule to remove obsolete provisions as the time frame referred to in subsection (1)(c) has passed.

24.301.146 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE APPLICABLE TO BOTH THE DEPARTMENT'S AND LOCAL GOVERNMENT CODE ENFORCEMENT PROGRAMS (1) through (6) remain the same.

~~(7) Subsection 101.4.7, Energy, is modified by deleting "International Energy Conservation Code" and replacing with "Model Energy Code."~~

(8) through (10) remain the same but are renumbered (7) through (9).

~~(11) Footnote e, Table 415.3.1 is amended with the addition of the following sentence: "A magazine which is regulated by the United States bureau of alcohol, tobacco and firearms, may be considered as in compliance with the International Building Code distance provisions if distances are determined by utilizing either Table 415.3.1 of the International Building Code or applicable table in the fire code, at the discretion of the building official."~~

(12) through (14)(a) remain the same but are renumbered (10) through (12)(a).

(i) Installation of Sprinkler Systems: NFPA 13 Standard for the Installation of Sprinkler Systems, ~~1999~~ 2002 edition.

(ii) Installation of Sprinkler Systems in Group R Occupancies Four Stories or Less: NFPA 13R Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, ~~1999~~ 2002 edition.

(b) Standpipe Systems: NFPA 14 Standard for the Installation of Standpipe and Hose Systems, ~~2000~~ 2003 edition.

(c) remains the same.

~~(15)~~ (13) Delete subsection 903.2.7 and replace with the following:

"1. An approved automatic sprinkler system installed in accordance with Section 903.3 shall be provided in all Group R buildings meeting any of the following criteria:

"a. 20 or more transient guests or 10 or more transient guestrooms;

"b. 20 or more occupants in other than dwelling units;

"c. 16 or more dwelling units; or

"d. more than 2 stories.

"2. In lieu of the above required automatic sprinkler system in buildings not more than three stories above the lowest level of exit discharge, each transient guestroom may be provided with at least one door leading directly to an exterior exit access that leads directly to approved exits.

"3. "Transient guest" for the purpose of this subsection shall mean an occupant who is primarily transient in nature, staying at one location for 30 days or less."

"4. "The requirements for automatic sprinkler systems for R-4 occupancies are found in ARM 24.304.146(36)."

(16) and (17) remain the same but are renumbered (14) and (15).

~~(18) Subsection 1301.1.1 is modified by deleting and replacing with the following: "In order to comply with the purpose of this subsection, buildings shall be designed to comply with the requirements of the energy code as adopted in ARM 24.301.160."~~

~~(19)~~ (16) Subsection 1608.2 is deleted and replaced with the following: "Snow loads shall be determined by the building official. In areas of the state outside of certified local government city, county, and town jurisdictions, the design snow load shall be based on the ground snow loads developed in "Snow Loads for Structural Design in Montana", authored by F.F. Videon and J.P. Schilke, Civil & Agricultural Engineering Department, Montana State University, August 1989 2004 revised edition. The minimum design roof snow load after allowed reductions shall be 30 psf unless justified by a Montana licensed design professional to the satisfaction of the building official. Note: Other coefficients ~~Coefficients~~ and factors other than those specified in the building code may be used when justified by a Montana licensed design professional to the satisfaction of the building official."

(20) through (25) remain the same but are renumbered (17) through (22).

~~(26) Delete chapter 32 in its entirety.~~

(27) remains the same but is renumbered (23).

(28) and (28)(a) remain the same but are renumbered (24) and (24)(a).

(b) A community residential facility ~~does not include an assisted living facility as defined in 50-5-101, MCA, with eight or fewer persons for which the building is designed or for which it is licensed.~~ as defined in 76-2-411, MCA, includes an assisted living facility licensed under 50-5-227, MCA. Residential building codes are applicable to assisted living facilities with eight or fewer persons and a building permit will not be required by the department. Within the jurisdictional area of a local government that is certified to enforce the International Residential Code for single family dwellings, residential building codes shall be applied to assisted living facilities with eight or fewer persons.

(c) A licensed adult foster care home, as defined in ~~50-60-101(3)~~ 50-5-101, MCA, which by definition is limited to four or fewer residents, is the equivalent to a licensed adult foster family care home referenced in 76-2-411, MCA, and is therefore a community residential facility. Within the jurisdictional area of a local government that is certified to enforce building codes for single family dwellings, a licensed adult foster care home will be classified as a Group R, Division 3 structure for building permit and construction standard purposes. Within the state's jurisdictional area a licensed adult foster care home will be treated as a residential building exempt from the state building code as provided in 50-60-102, MCA.

(29) through (32) remain the same but are renumbered (25) through (28).

~~(33)~~ (29) A private storage structure ~~used only for the owner's own use~~ is a building used only:

(a) for storage of personal effects of the owner; and

(b) is not used for storage of equipment, vehicles, materials, supplies or products used in a commercial enterprise or business items relating to any venture which intends or contemplates any transfer or exchange of the stored items.

(34) through (40) remain the same but are renumbered (30) through (36).

(a) Category A assisted living facilities with ~~one~~ nine to 19 residents, as referenced in 50-5-226, MCA, will be classified as an R-4 occupancy for building permit and construction standard purposes. Automatic fire sprinkler systems are not required.

(b) Category B assisted living facilities with ~~one~~ nine to 19 residents, as referenced in 50-5-226, MCA, will be classified as an R-4 occupancy for building permit and construction standards purposes. In addition, a category B assisted living facility shall have an automatic fire sprinkler system and provide an accessible sleeping room or space for each category B resident.

(c) remains the same.

(41) and (42) remain the same but are renumbered (37) and (38).

AUTH: 50-60-203, MCA

IMP: 50-60-101, 50-60-102, 50-60-104, 50-60-201, 50-60-203, 50-60-205, MCA

REASON: There is reasonable necessity to delete section (7) as this section excluded references to the International Energy Conservation Code, which the Department has since adopted in ARM 24.301.161. ARM 24.301.160, which formerly adopted the Model Energy Code, was repealed on September 3, 2004. The proposed change has the effect of incorporating the references to the International Energy Conservation Code into the International Building Code, and makes those provisions enforceable by the Department and certified local government enforcement programs.

There is reasonable necessity to delete section (11) of the rule as the sections covering requirements of explosives in the adopted International Building Code, 2003 edition, are a reference requiring compliance with the adopted fire code. Furthermore, the adopted NFPA 1 Uniform Fire Code references specific standards, such as the NFPA 495, Explosive Materials Code, which provides the distance tables for the specific explosive types. This clear and concise reference to specific standards makes the current rule 24.301.146(11) obsolete and eliminates any need for discretionary contribution from the building official.

It is reasonably necessary to amend subsections (12)(a)(i), (ii) and (b) of the rule in order to update to a more current automatic sprinkler standard, in order to remain current with industry standards and to take advantage of technology improvements.

It is reasonably necessary to amend section (13), definition 4, to clarify where to find the requirements for automatic sprinkler systems in R4, assisted living facilities, in coordination with the updating of fire sprinkler standards.

It is reasonably necessary to delete section (18) of the rule because the reference to the energy code is now found in the International Energy Conservation Code adopted by the Department in ARM 24.301.172. The Department notes that ARM 24.301.160 was repealed by the Department on September 4, 2004.

There is reasonable necessity to amend section (19) [to be renumbered as section (16)] to update the publication used for determining snow loads for construction. The new 2004 edition of the publication incorporates new snow load data and will provide for more accuracy in determining the proper snow load for the location of the project.

There is reasonable necessity to delete section (26) in response to recent requests by certain certified cities, counties, and towns, who have stated that they need the ability to use section 32 of the International Building Code, which addresses building projections and encroachments into the public right of way. The Department notes that it intends to continue its practice of allocating its own limited resources to address building code matters that implicate a significant risk of harm to the public.

Subsection (24)(b) is amended to reflect changes to 76-2-411(5), MCA in the 2003 legislative session which changed the definition of "community residential facility" to include assisted living facilities. Subsection (24)(c) is amended to correct the reference to the MCA that defines a licensed adult foster care home. The rule referenced an incorrect MCA prior to amendment.

It is reasonably necessary to amend new section (29) as 50-60-102, MCA, exempts private storage structures from permit requirements and the Bureau has determined it is therefore necessary to clarify that buildings used by non-profit and/or charitable organizations to store inventory items prior to shipment or distribution are not private storage structures and therefore are not exempt.

It is reasonably necessary to amend (36)(a) and (b) due to legislative changes to 76-2-411, MCA, in the 2003 legislature. The Department sees a need to clarify that residential building codes apply to assisted living facilities with 8 or fewer persons. The R-4 occupancy requirements will only apply to assisted living facilities with 9 to 19 residents.

24.301.161 INCORPORATION BY REFERENCE OF INTERNATIONAL ENERGY CONSERVATION CODE (1) through (1)(d) remain the same.

(e) Subsection 503.3.3.1, Piping insulation, is amended by adding a fourth exception as follows: "4. Pipe insulation is not required in heated or conditioned areas."

(f) Table 503.3.3.3, Minimum duct insulation, is amended by adding footnote e as follows: "e. In locations where annual heating degree days exceeds 7500, minimum R-value for ducts in all areas need not exceed R-8."

(2) and (3) remain the same.

AUTH: 50-60-203, 50-60-803, MCA

IMP: 50-60-201, 50-60-203, 50-60-803, MCA

REASON: It is reasonably necessary to amend this rule to allow reasonable options to pipe insulating requirements, as recently requested by the Department of Environmental Quality and endorsed by the Building Codes Council. The requirements found in the International Energy Conservation Code (IECC) are at times not feasible to implement or exceed the insulation levels which the Department believes will provide adequate piping and duct insulation factors. The requirements for duct insulation are also being amended due to the lack of availability of the insulation required by the IECC. The IECC specifies that R-12 insulation must be used, but research with vendors in Montana has found that it is not readily available in this state.

24.301.172 INCORPORATION BY REFERENCE OF INTERNATIONAL MECHANICAL CODE (1) through (1)(a) remain the same.

(b) Subsection 101.2 is amended to delete exceptions 1 and 2 in ~~their~~ its entirety.

(c) through (6) remain the same.

AUTH: 50-60-203, MCA

IMP: 50-60-102, 50-60-103, 50-60-109, 50-60-201, 50-60-303, MCA

REASON: It is reasonably necessary to amend this rule for the purpose of allowing mechanical systems undergoing repair, alterations or additions to comply with the provisions of either the International Mechanical Code or the International Existing Building Code adopted by the Department on March 12, 2004. This amendment will provide designers more flexibility when designing the mechanical system by allowing either of the two codes to be used. In addition, the proposed amendment will decrease the financial imposition that has been objected to by some contractors and developers, due to the need to purchase more than one series of building code publications. Accordingly, the Department has concluded that there is reasonable necessity to make the proposed amendment at the same time as other building code rules are being amended.

24.301.209 SPECIAL REPORTS (1) remains the same.

(a) where a code enforcement program provides any part of its services in accordance with or through contractual

arrangements, any material changes in such contracts must be reported, including but not limited to:

- (i) breach_{7i};
- (ii) reformation_{7i};
- (iii) rescission_{7i}; or
- (iv) modification ~~must be reported; or~~

(b) when building officials or supervisory personnel are no longer employed in those capacities within the certified code enforcement programs_{7i}; or

(c) when the jurisdictional area changes due to annexation of additional parcels of land.

(2) A city, county, or town must provide a map to the department showing any changes to the local government's jurisdictional area within 45 days of any change.

AUTH: 50-60-302, MCA

IMP: 50-60-106, 50-60-302, MCA

REASON: It is reasonably necessary to amend this rule to ensure that the Department is receiving the necessary information vital to its supervisory interests in a timely manner whenever a certified city, county, or town makes changes to their jurisdictional area. When the jurisdictional boundary is unclear or unknown it becomes increasingly difficult for the department to differentiate between which projects the department inspectors should be inspecting and those over which certified city, county, and town building code programs have authority. There is reasonable necessity to amend the rule to avoid duplicate permits being issued and to avoid the inefficiency of department employees inspecting work that is not within the department's jurisdiction. In addition, there is reasonable necessity to update the IMP citation, while this rule is otherwise being amended, with an additional statute that the rule implements.

24.301.301 INCORPORATION BY REFERENCE OF UNIFORM PLUMBING CODE (1) through (1)(h) remain the same.

(i) Subsection 6.2, Prohibited Urinals, is amended by adding the following: "Exception: Non-water supplied urinals may be installed and shall be maintained in accordance with manufacturer's installation instructions and required maintenance schedule. A properly sized drain, vent and water supply line, permanently capped, shall be installed for future use in the event the owner decides or is ordered to replace the non-water supplied urinal with a water supplied urinal."

(i) remains the same but is renumbered (j).

(k) Subsection 508.14, paragraph one is amended to read as follows: "Gas utilization equipment, or any equipment that generates a glow, spark or flame, in residential garages and in adjacent spaces that open to the garage and are not part of the living space for a dwelling unit shall be installed so that all burners, burner-ignition devices, and heating elements are located not less than 18 in. (450 mm) above the floor unless listed as flammable vapor ignition resistant."

(j) through (ac) remain the same but are renumbered (1) through (ae).

(2) remains the same.

AUTH: ~~50-60-201~~, 50-60-203, 50-60-504, 50-60-508, MCA

IMP: 50-60-201, 50-60-203, 50-60-504, 50-60-508, MCA

REASON: There is reasonable necessity to add new subsection (1)(i) to include the exception added to subsection 6.2 of the Uniform Plumbing Code, which will allow the installation of waterless urinals, pursuant to a recent request by the Department of Environmental Quality. Waterless urinals are an acceptable alternative to water supplied urinals to provide reasonable opportunity to utilize water conservation technology and meet the minimum requirements for the Leadership in Energy and Environmental Design (LEED) program. The proposed change is being made following consultation with the Building Codes Council, the advisory group provided for by 50-60-115, MCA.

New subsection (k) is reasonably necessary to prevent ignition of flammable vapors and fumes which may collect in low areas of a garage floor due to storage of flammable products or leakage and spills of gas cans, fuel tanks, etc. Gas utilization equipment was already required to be 18" above the floor, by requiring the same of electrical equipment the safety factor will be increased as electrical equipment can also cause ignition of flammable liquid and gases. The proposed change is being made following consultation with the Building Codes Council, the advisory group provided for by 50-60-115, MCA.

In addition, there is reasonable necessity to correct the AUTH and IMP cites for the rule while the rule is otherwise being amended.

24.301.401 INCORPORATION BY REFERENCE OF NATIONAL ELECTRICAL CODE (1) The department of labor and industry, by and through the building codes bureau, adopts and incorporates by reference ~~herein~~ the National Fire Protection Association Standard NFPA 70, National Electrical Code, ~~2002~~ 2005 Edition referred to as the National Electrical Code unless another edition date is specifically stated. The National Electrical Code is a nationally recognized model code setting forth minimum standards and requirements for electrical installations. A copy of the National Electrical Code may be obtained from the Department of Labor and Industry, Building Codes Bureau, P.O. Box 200517, Helena, Montana 59620-0517 or the National Fire Protection Association, One Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

AUTH: ~~50-60-201~~, 50-60-203, 50-60-603, MCA

IMP: 50-60-201, 50-60-203, 50-60-601, 50-60-603, MCA

REASON: It is reasonably necessary to amend this rule for the purpose of adopting the most current edition of the National

Electrical Code (NEC). The NEC is updated every three years, to account for and allow the use of new building materials and construction techniques. New editions also incorporate advances in safety standards relative to electrical construction. The Building Codes Bureau strives to stay up-to-date by continually adopting more current codes relating to the programs the Department regulates. In addition, there is reasonable necessity to correct the AUTH and IMP cites for the rule while the rule is otherwise being amended.

24.301.421 ELECTRICAL INSPECTORS (1) remains the same.

(2) ~~The inspector~~ Inspectors shall give information as to the meaning or application of the code, but shall not ~~lay out work or act as a consultant for contractors, electricians, owners, or users~~ perform duties for or assume the responsibilities of a consultant or advisor with respect to contractors, electricians, owners, or users for whom the inspectors perform compliance inspections under the authority granted to them by virtue of their employment as department inspectors.

(3) State electrical inspectors shall not inspect any electrical work in which ~~the inspector has~~ they have any financial or personal interest, or ~~has been installed by him or by any electrical contractor by whom he is employed which they have installed or repaired.~~

(4) remains the same.

(5) ~~State A state~~ A state electrical ~~inspectors shall have~~ inspector has the right, during reasonable hours ~~and after while~~ showing proper identification, to enter any building or premise in the discharge of ~~his~~ the inspector's official duties to make any inspection or test of electrical equipment that is necessary to protect the public health, safety, and welfare.

AUTH: 50-60-203, 50-60-603, MCA

IMP: 2-2-101, 50-60-103, 50-60-201, 50-60-203, 50-60-603, 50-60-604, MCA

REASON: It is reasonably necessary to amend the above rule for the purpose of clarifying the duties of a state electrical inspector performing inspections for the department and to prevent any perception of impropriety that might arise. In addition, there is reasonable necessity to update the IMP citation, while this rule is otherwise being amended, with additional statutes that the rule implements.

24.301.431 ELECTRICAL PERMIT (1) and (2) remain the same.

(3) The term "owner" listed in ARM 24.301.431 applies to owners doing electrical work on their own residence, farm, or ranch property ~~or residence~~ provided that said property ~~or residence~~ is maintained for their ~~own~~ personal, private use. The property or residence shall ~~be intended for the owner's personal use and~~ not be built on speculation of resale or

intended as rental property. On farm and ranch installations used in conjunction with an agricultural or livestock raising operation, the term "owner" applies to the owner, owner's agent and/or person(s) employed by the owner on a full time basis as a farm or ranch employee(s) at the farm or ranch involved.

(4) remains the same.

(5) The requirements listed in 50-60-605, MCA, requiring an "electrical permit" before the energizing of an electrical installation by a power supplier means the power supplier may energize said installation, before an inspection has been performed by the department, after issuing a power supplier limited service certificate as allowed in [NEW RULE IX], or upon receipt of the power supplier's copy of the electrical permit issued by the department.

(6) remains the same.

(7) The permittee shall be responsible for, ~~and shall insure that,~~ all work performed under the electrical permit, and shall ensure that all work meets the requirements of ~~the state building code, including~~ the National Electrical Code, as amended by the version of ARM 24.301.411 in effect at the time the permit was issued. No permittee shall allow any other person to do, or cause to be done, any work under an electrical permit issued to the permittee, except the permittee or his licensed employees.

(8) Electrical permits on which the fees, as provided in ARM 24.301.461, are under ~~\$250~~ \$350 are valid for a period of ~~one year~~ eighteen months from the date of issuance. ~~Extensions Renewals of up to one year may be granted on a case by case basis by the department as long as the application for renewal is made not more than 30 days following expiration of the original permit. for good cause provided such extension is requested prior to expiration of the permit, and payment is made of the renewal fee.~~

(9) through (11) remain the same.

AUTH: 50-60-203, 50-60-603, 50-60-607, MCA

IMP: 50-60-201, 50-60-203, 50-60-603, 50-60-604, 50-60-605, MCA

REASON: It is reasonably necessary to amend this rule for the purpose of clarifying the permit application process. These changes have been made in response to the common mistakes and problems found among permit applications received by the department. These clarifications should reduce the number of application mistakes received by the department and therefore make processing of those applications more efficient.

Extending the amount of time the permit is valid in new section (9) will allow homeowners a more reasonable amount of time to finish their project. Homeowners installing their own wiring often do not finish their home in less than 12 months and extending the period to 18 months should help make timely completion more possible. The Department notes that the permit fees are not increasing as a result of the proposed

amendment. The increase from \$250 to \$350 is only the ceiling for determining whether a permit is eligible for the 18 month completion period.

In addition, there is reasonable necessity to amend the IMP cite, while this rule is otherwise being amended, to indicate that 50-60-201, and 50-60-605, MCA, are also being implemented by this rule.

24.301.441 COVER (ROUGH-IN) INSPECTIONS (1) Cover (rough-in) inspections are made by a state electrical inspector wherever possible. Insulation and wallboard shall not be applied ~~before~~ prior to inspection unless 48 hours, excluding Saturdays, Sundays and holidays, have expired after the electrical installation is complete and notice to inspect has been received.

~~(2)~~(3) Whenever violations are found upon inspection, the inspector will notify the installer verbally, ~~or~~ with a written inspection report, or a written compliance order as to the nature of the violations.

(3) remains the same but is renumbered (2).

AUTH: 50-60-203, 50-60-603, 50-60-604, MCA

IMP: 50-60-103, 50-60-201, 50-60-203, 50-60-603, 50-60-604, MCA

REASON: It is reasonably necessary to amend this rule as the state electrical inspectors currently experience a large number of calls from electrical installers requesting inspection before installations are complete and ready for inspection. Specifying that inspections must be made after the electrical installations are complete is intended to reduce the number of unnecessary trips made by inspectors to inspect jobs that are not ready to be inspected.

New section (3) is amended to include the use of an inspection report to notify the installer of violations on a project. This report, which has been used by department inspectors over the past two years experimentally, has been found to be an effective tool in communicating what the problems are and what needs to be done for projects to comply with the electrical code. In addition, there is reasonable necessity to amend the IMP cite, while this rule is otherwise being amended, to indicate that 50-60-103 and 50-60-201, MCA, are also being implemented by this rule.

24.301.451 FINAL INSPECTION ~~(1)~~(2) Upon completing final inspections, ~~the~~ state inspectors will date and sign the inspection ~~permit reports,~~ reports, ~~either approving or disapproving the installation.~~ Inspectors will apply a green "approved" tag or an orange "conditionally approved" tag to installations. Green "approved" tags will be applied when installations have been inspected and approved by the department. Orange "conditionally approved" tags will only be applied to those installations that violate the cover inspection provision as provided in ARM 24.301.441. If the

installation is disapproved, notice thereof, together with reasons for disapproval, will be given by inspectors to installers of record. After removal or repair of the cause ~~of~~ for disapproval, installers must make a request for reinspection ~~by of~~ the inspector, who issued the disapproval. ~~and upon payment of a reinspection fee, as provided in ARM 24.301.461, and approval of the inspector, the inspector will issue an approved inspection permit, and so tag the installation.~~ When the inspector approves the corrected installation as identified on the permit and inspection documents, an appropriate tag will be applied to the installation.

~~(2)(1)~~ The permittee of record, whether an electrical contractor or a homeowner, shall notify the area electrical inspector when the electrical installation is ready for final inspection, ~~whether or not an inspection is subsequently performed.~~ and provide access to the installation for inspection or furnish the necessary information as to who can provide access to the installation.

AUTH: 50-60-203, 50-60-603, 50-60-604, MCA
IMP: 50-60-103, 50-60-201, 50-60-203, 50-60-603, 50-60-604, MCA

REASON: It is reasonably necessary to amend this rule as the department's electrical inspectors have found a significant number of projects that no inspection was performed before the wiring was covered up inside the walls. When final inspections are performed on these projects the electrical installations will be tested to ensure everything is working properly and the inspector will apply an orange "conditionally approved" tag. This tag indicates the project did not have a "rough-in" inspection performed before being covered but appears to be a safe installation based upon the final inspection. In addition, there is reasonable necessity to amend the IMP cite, while the rule is otherwise being amended, to indicate that 50-60-103 and 50-60-201, MCA, are also being implemented by this rule.

24.301.461 ELECTRICAL INSPECTIONS FEES (1) The following is the schedule of electrical inspection fees as charged by the department. As provided in ARM 24.301.203 local governments certified to enforce the electrical code may establish their own electrical permit fees.

<u>Type of Installation</u>	<u>Permit Fee</u>
(a) temporary construction service — no separate charge	
(b)(a) single-family dwellings or cabins (includes <u>attached or detached</u> garage <u>if</u> wired at the same time as the house or cabin)	
(i) 100 to 300 amp service	\$150*
(ii) 301 or more amp service	300*
*Fee includes maximum of three inspections.	

Additional inspections charged at requested electrical inspection rates.

(e) (b) private property accessory buildings (includes new service or upgrade of existing service for supply of power to garages, barns, sheds, etc.)	
(i) up to 200 amp panel	60
(ii) 201 to 300 amp panel	120
(iii) 301 or more amp panel	150
(d) and (e) remain the same but are renumbered (c) and (d).	
(f) (e) interior rewire only or new addition to a home (includes change of service if installed at the same time)	80
(g) remains the same but is renumbered (f).	
(h) (g) mobile home installations (in a court) —————	25*
modular homes, mobile homes, and recreational vehicles	
(i) mobile home installation (outside a court) —————	60*
(i) wiring to a mobile or modular home with wiring of a basement and/or garage at the same time	100
(ii) wiring to a mobile, modular, or RV only on privately owned property	60*
(iii) wiring to a mobile or RV on rental space at a licensed court with previously existing electrical service	25*
*Fee includes only one inspection; reinspections require new permit.	
(j) modular homes	
(i) no basement	60
(ii) with a basement and/or garage	100
(k) remains the same but is renumbered (h).	
(i) and (ii) remain the same.	
(l) (i) new service only and wiring for utilization equipment, such as (livestock well, irrigation well, etc.)	40
(m) through (o) remain the same but are renumbered (j) through (l).	
(p) (m) all other installations (commercial, industrial, institutional, or for public use). <u>Fees are based on total cost to the owner of all labor and materials to complete the electrical project. Electrical materials furnished by the owner must be included in the total electrical project cost:</u>	

Cost of Electrical
Installation

Fee

\$ 0 - \$1,000	\$45 for 1st \$500 plus 6.0% of balance of construction cost
\$ 1,001 - \$10,000	\$75 for 1st \$1,000 plus 2.0% of balance of construction cost
\$10,001 - \$50,000	\$255 for 1st \$10,000 plus 0.5% of balance of construction cost

\$50,001 or more \$455 for 1st \$50,000 plus 0.3%
of balance of construction cost

~~(g)(n)~~ temporary construction service (~~for~~
~~commercial, industrial, institutional~~
~~or public use for non-residential jobs only~~) 25

NOTE: this additional \$25 fee is required
in addition to the above inspection
fees if a temporary service will be used,
and is to be paid at the same time as
the regular permit fee before construction
begins.

~~(r)(o)~~ permit issuance fee* 20
*This fee does not apply to permits issued
pursuant to (1)~~(n)(k)~~ or ~~(3)(2)~~.

(2) remains the same but is renumbered (3).

(3) remains the same but is renumbered (2).

~~(4) The payment of the \$20 permit issuance fee is
temporarily suspended from October 1, 2001, through December
31, 2002. Upon written application to the department, on
forms which may be prescribed by the department, a refund of
the \$20 permit issuance fee shall be given to the person who
paid the permit issuance fee, and the fee was received by the
department during this period.~~

AUTH: 50-60-104, 50-60-203, 50-60-603, 50-60-604, MCA
IMP: 50-60-104, 50-60-203, 50-60-603, 50-60-604, ~~50-60-607~~,
MCA

REASON: The changes to this rule are reasonably necessary to
clarify the fees charged for electrical permits due to common
errors made on the applications. The Department receives
several permit applications each week that have been submitted
with the incorrect fee amount. The proposed changes are
intended to assist applicants in selecting the proper fees for
their projects. No changes have been made to the fees
charged; they have been reworded and/or rearranged for clarity
only. Accordingly, the Department believes that there is no
fiscal impact resulting from the proposed changes.

There is reasonable necessity to delete section (4) as
the time frame referred to within the section has passed.
Finally, there is reasonable necessity to delete a
nonapplicable IMP citation while the rule is otherwise being
amended.

24.301.481 CARNIVALS, FAIRS, OUTDOOR CONCERTS AND
SIMILAR AMUSEMENT ESTABLISHMENTS AND OTHER PUBLIC ASSEMBLIES
OF A TEMPORARY NATURE (1) through (3) remain the same.

~~(4) The major areas of concern include but are not
limited to:~~

~~(a) All exterior boxes, cabinets, panels, controls,
outlets and switches shall be weatherproof.~~

~~(b) All cords, wire, etc. shall be approved by a recognized testing agency and in good repair.~~

~~(c) All grounding shall comply with Articles 250, 445 and 525 of the National Electrical Code.~~

~~(d) All cords, caps and plugs shall be of the grounding type.~~

~~(e) All panels, boxes and cabinets shall have all unused openings plugged.~~

~~(f) All panels, boxes, cabinets, outlets and switches shall have covers, dead fronts or doors.~~

~~(g) All electrical equipment shall have physical protection where necessary.~~

~~(h) All splices in electrical wires must occur in approved boxes, apparatus or equipment.~~

~~(i) All open conductors, open front panels, boxes, switches, etc. must be adequately protected from pedestrian and vehicular traffic, or made inaccessible to the public.~~

AUTH: 50-60-203, 50-60-603, ~~50-60-604~~, MCA

IMP: 50-60-201, 50-60-203, 50-60-603, 50-60-604, MCA

REASON: It is reasonably necessary to amend this rule as the stricken material is published in the 2005 edition of the National Electrical Code (NEC) as adopted by the Department in ARM 24.301.401. This topic has always been addressed in the NEC book but is clearer now than in past editions. The inclusion of this subject in the 2005 NEC makes section (4) of this rule unnecessary. In addition, there is reasonable necessity to amend the AUTH and IMP cites, while the rule is otherwise being amended, to more accurately reflect the statutes authorizing the rule and being implemented by the rule.

24.301.501 APPLICABILITY OF STATE STATUTES AND ADOPTED ADMINISTRATIVE RULES (1) through (2)(d) remain the same.

(e) the latest adopted edition of the ~~Model Energy Code~~ International Energy Conservation Code.

(3) remains the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-201, 50-60-203, 50-60-401, MCA

REASON: It is reasonably necessary to amend this rule to reference the current energy code, which was adopted by the Department in March of 2004. The Model Energy Code was repealed by the Department on September 3, 2004. In addition, there is reasonable necessity to amend the IMP cite, while the rule is otherwise being amended, to indicate that 50-60-201, MCA, is also being implemented by this rule.

24.301.558 APPLICATION FOR INSIGNIA PURSUANT TO PLAN REVIEW (1) and (2) remain the same.

(3) Manufacturers that possess insignias issued by the department shall provide monthly insignia reports. Monthly

insignia report forms shall be completed and submitted to the ~~bureau department~~ no later than the tenth of the following ~~each month whether or not insignias were issued during the month being reported~~ following issuance of the insignia by the department, until all such insignia have been lawfully affixed to the manufactured products for which they were issued.

(4) through (6) remain the same.

AUTH: 50-60-203, 50-60-401, 50-60-402, MCA

IMP: 50-60-201, 50-60-203, 50-60-401, 50-60-402, MCA

REASON: It is reasonably necessary to amend this rule to eliminate reporting requirements for manufacturers that no longer possess unused Department issued insignias in order to eliminate unnecessary workload (on the part of both the manufacturers and the Department). In addition, there is reasonable necessity to amend the IMP cite, while the rule is otherwise being amended, to indicate that 50-60-201, MCA, is also being implemented by this rule.

24.301.711 DEFINITIONS For the purposes of this subchapter, the following definitions ~~shall~~ apply:

(1) through (10) remain the same.

(11) "Internal inspection" means as complete an examination as can reasonably be made of the internal ~~and external~~ surfaces of a boiler while it is shut down, when such manhole plates, handhole plates or other inspection opening closures are opened or removed for cleaning or repair as required by the department.

(12) through (29) remain the same.

AUTH: 50-60-203, 50-74-101, MCA

IMP: 50-60-103, 50-60-201, 50-60-203, ~~50-74-101~~ 50-74-209, 50-74-215, MCA

REASON: It is reasonably necessary to amend this rule to clarify that an internal inspection is limited to the areas of the boiler accessible only when the boiler is shut down. In addition, there is reasonable necessity to amend the lead-in language of the rule while the rule is otherwise being amended, to make it consistent with the style and usage recommended by the Secretary of State's office and as used in other rules of the Department. Finally, there is reasonable necessity to amend the IMP citations, while the rule is otherwise being amended, to update and correct the list of statutes being implemented.

24.301.718 BOILER INSPECTIONS (1) remains the same.

(2) Steam heating boilers and power boilers must be inspected internally:

(a) on an annual basis; or

(b) during a scheduled maintenance shutdown, with prior approval from the department.

AUTH: 50-60-203 and 50-74-101, MCA
IMP: 50-60-203, 50-74-206, ~~and~~ 50-74-209, 50-74-215, 50-74-217, MCA

REASON: There is reasonable necessity to amend this rule to specify the interval of internal boiler inspections to ensure that all steam heating and power boilers are inspected on an annual basis. The Department has recently become aware that some of these boilers have not been shut down for an internal inspection for several years and the Department believes this situation exists because the rule was not sufficiently specific. The internal inspection is extremely important to ensure the safe operation of these boilers. In proposing the amendment, the Department has provided for exceptions to the "annual" requirement to be made on a case-by-case basis, to accommodate where feasible, commercial and industrial operations. In addition, there is reasonable necessity to amend the IMP citations while the rule is otherwise being amended, to more accurately cite the statutes implemented by the rule.

24.301.801 ADOPTION BY REFERENCE OF ARM 37.111.1105
1115--REVIEW OF PLANS (1) Pursuant to 50-53-103, MCA, the building codes bureau of the department of labor and industry ~~hereby~~ adopts by reference ARM 37.111.11051115, regarding ~~swimming pool licensure barrier and area requirements, deck area requirements, and handhold requirements as they relate to swimming pool construction.~~ Said rule, ARM 37.111.1115 is to be utilized enforced by the department of public health and human services, ~~and~~ will not be enforced by the building codes bureau.

(2) In accordance with ARM 37.111.1105, the building codes bureau of the department of labor and industry retains all other building regulation authority provided to it by 50-60-101, MCA, et seq. and by ARM 24.301.101, et seq.

~~(2)~~(3) Copies of ARM 37.111.11051115 can be obtained by contacting the Department of Public Health and Human Services, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

AUTH: ~~50-53-103~~, 50-60-203, MCA
IMP: 50-53-103, 50-60-104, MCA

REASON: It is reasonably necessary to amend this rule for the purpose of correctly referencing the rule that addresses certain swimming pool construction requirements and to clarify that the department retains its authority relating to all other code requirements pertaining to swimming pool installations. In addition, there is reasonable necessity to amend the AUTH and IMP citations, while the rule is otherwise being amended, in order to correct and update those citations.

4. The new rules proposed to be adopted provide as follows:

NEW RULE I INCORPORATION BY REFERENCE OF ELEVATOR CODE

(1) The department of labor and industry, referred to as department, adopts and incorporates by reference:

(a) Safety Code for Elevators and Escalators, ASME A17.1 2000;

(b) Safety Code for Existing Elevators and Escalators, ASME A17.3 2002;

(c) Safety Standard for Platform Lifts and Stairway Chairlifts, ASME A18.1-1999 and A18.1a-2001 Addenda; and

(d) ASME A17.1 2000, Appendix N, Table N1, Recommended Inspection and Test Intervals in Months, for required testing intervals. This table is to be used for testing interval requirements only. Inspection intervals are to be performed as specified in 50-60-711, MCA.

(i) Existing elevators with a capacity of 1400 pounds or less are to be tested according to the requirements of limited-use/limited-application elevators as specified in (1)(d).

(2) The purpose of the elevator code is to provide safety standards for the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of permanently installed hoisting and lowering mechanisms.

(a) Devices covered by the elevator code include but are not limited to:

- (i) elevators;
- (ii) platform lifts;
- (iii) stairway chair lifts;
- (iv) dumbwaiters;
- (v) escalators;
- (vi) automated people movers;
- (vii) inclined lifts; and
- (viii) moving walks and their hoistway.

(b) The elevator code does not apply to self-powered, mobile equipment including, but not limited to:

- (i) material hoists and man lifts;
- (ii) mobile scaffolds, towers, and platforms;
- (iii) powered platforms and equipment for exterior and interior maintenance;
- (iv) conveyors and related equipment;
- (v) cranes, derricks, hoist, hooks, jacks and slings;
- (vi) industrial trucks;
- (vii) portable equipment, except for portable escalators;
- (viii) tiering or piling machines used to move materials to and from storage that are located and operated entirely within one story;
- (ix) equipment for feeding or positioning materials at machine tools, printing presses, and similar locations;
- (x) furnace hoists; and
- (xi) railroad car lifts or dumps which are typically used on a temporary basis on construction sites.

(3) Inspection, code compliance and enforcement of hoistway (shaft) standards is the responsibility of the appropriate authority having jurisdiction for inspection and enforcement of the building code.

(4) The codes, standard and appendix referenced in (1) are collectively referred to as the elevator code. A copy of the elevator code may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017.

AUTH: 50-60-203, 50-60-705, 50-60-715, MCA

IMP: 50-60-201, 50-60-704, 50-60-705, 50-60-715, MCA

REASON: It is reasonably necessary to adopt NEW RULE I for the purpose of adopting an elevator code to regulate elevator safety in Montana in order to implement the provisions of Chapter 303, Laws of 2005 (Senate Bill 412). This rule establishes inspection intervals, testing requirements and the types of elevators to which this code applies.

NEW RULE II PLAN REVIEW AND PERMIT FEE (1) An elevator contractor may not erect, construct, install or alter an elevator, dumbwaiter, escalator, or other equipment subject to the provisions of Title 50, chapter 60, MCA, unless the elevator contractor has first obtained a permit from the department and paid the requisite permit fee.

(2) The plan review and permit fee for new installations and alterations of an elevator, escalator, moving walk and other conveyance covered within the scope of the elevator code and subject to the inspection requirements of Title 50, chapter 60, MCA, is:

(a) valuation up to and	\$55
including \$40,000	
(b) valuation over \$40,000	55,
	plus \$1
	for each \$1,000
	or fraction
	thereof over
	\$40,000

(3) Plans, applications and fees for new units must be submitted to the department at least 30 days prior to commencement of construction and installation of the unit. Plan approval and issuance of permits must be obtained from the department prior to the commencement of construction and installation.

(4) No elevator permit will be issued until a building permit is issued, unless it is determined by the department that a building permit is not required.

(5) Building code related drawings as required by 50-60-709, MCA, must also be submitted to certified cities, counties, and towns if an elevator is being installed within their building codes jurisdictions.

(6) Private residential elevators are only allowed in buildings that are not accessible to the general public or to other occupants of the building.

(7) Permits will expire six months after issuance.

(8) Permits may be revoked for cause including but not limited to:

(a) unprofessional conduct, as defined in 37-1-410, MCA, which conduct materially relates to work done under a lawfully issued permit;

(b) not following the plans approved by the department;
or

(c) failure to obtain or maintain insurance on an installation as required in 50-60-716, MCA.

AUTH: 50-60-203, 50-60-705, MCA

IMP: 50-60-201, 50-60-709, 50-60-711, MCA

REASON: It is reasonably necessary to adopt NEW RULE II to specify the requirements for installing new elevators or altering existing elevators in Montana, to set forth the fees charged for a permit to do this work, in order to implement the provisions of Chapter 303, Laws of 2005 (Senate Bill 412). The fees are the same as the Bureau has previously charged for elevator installations as found in ARM 24.301.601 that is proposed for repeal in this notice (valuation up to and including \$40,000 - \$55; valuation over \$40,000 - \$55 plus \$1 for each \$1,000 or fraction thereof over \$40,000). In fiscal year 2005, 95 elevator applications were received by the Department for permits to construct, install, or alter elevators. The Department estimates about the same number will be received in fiscal year 2006 at an average cost of \$58.00 per application, for total annual revenue of \$5,510.00.

NEW RULE III CERTIFICATE OF INSPECTION - FEES (1) The department shall inspect hoisting and lowering mechanisms equipped with a car or platform, which move between two or more landings, including but not limited to:

(a) elevators, platform lifts and stairway chair lifts;

(b) power driven stairways and walkways for carrying persons between landings, including but not limited to:

(i) escalators; and

(ii) moving walks;

(c) hoisting and lowering mechanisms equipped with a car, which serves two or more landings and is restricted to carrying only materials by its limited size or limited access to the car, including but not limited to:

(i) dumbwaiters;

(ii) material lifts and dumbwaiters with automatic transfer devices; and

(d) automatic guarded transit vehicles on guideways with an exclusive right-of-way including, but not limited to, automated people movers.

(2) Each installation shall be inspected at least once every 12 months, except as provided in [NEW RULE V], and

freight elevator inspections must be conducted at least every two years.

(3) If the inspection by the department reveals a unit complies with the requirements of the code and the inspection fee has been paid, a certificate of inspection will be issued.

(4) If the inspection by the department reveals a unit has minor deficiencies that do not cause imminent hazard to life and safety but that should be corrected before the next inspection, a conditional certificate may be issued after the certificate of inspection fee has been paid. Only one conditional certificate will be issued for each specified deficiency. Upon the next scheduled inspection, if the same deficiencies exist, the department will require those deficiencies be corrected before a certificate of inspection will be issued.

(5) New or upgraded elevators cannot be placed in operation prior to an inspection by the department and the issuance of a temporary certificate of inspection. Installers shall call the department for an inspection a minimum of 10 working days prior to the scheduled or anticipated date for placing the elevator in use. A temporary certificate may be withdrawn at any time, for cause, by the department.

(6) A duplicate certificate of inspection will be issued for a \$10 fee.

(7) The annual certificate of inspection fee is:

(a) when inspections are performed by the department:

(i) for each elevator, escalator, \$100
and moving walk (also applies to follow-up
inspections performed after a licensed
inspector's inspection)

(ii) for each lift (also applies to 70
follow-up inspections done after
certified inspector's inspection)

(b) when inspections are made by certified inspectors
and no follow-up is required by the department:

(i) for each elevator, escalator 10
and moving walk

(8) When an inspection reveals an unsafe condition, the inspector shall immediately file with the owner and the department a full and true report of such inspection and such unsafe condition.

(a) If the department finds that the unsafe condition endangers human life, it shall cause the elevator, escalator, moving walk, or other conveyance to be posted with a notice, in a conspicuous place, stating that the conveyance is unsafe. The owner shall see to it that such notice is legibly maintained where placed by the department.

(b) The department shall also issue an order in writing to the owner requiring the repairs or alterations to be made to the conveyance, which is necessary to render it safe. The department may order the operation thereof discontinued until the repairs or alterations are made or the unsafe conditions are removed.

(c) Only the department may remove a posted notice of unsafe conditions when the department is satisfied that the unsafe conditions have been corrected.

(d) The certificate fee will be charged even though the unit is not certified for operation, and at such time as the deficiencies are corrected, a reinspection fee will be charged.

(9) It is unlawful to operate any elevator, escalator, moving walk, or other conveyance without a current certificate of inspection or authorization from the department. These certificates shall be issued upon payment of prescribed fees and the presentation of a valid inspection report indicating that the conveyance is safe and that the inspection was made within the previous six months. Certificates shall not be issued when the conveyance is posted as unsafe. Obtaining current certificates of inspection is the responsibility of the owners of the conveyance.

(10) Elevator certificates of inspection, or signs indicating that a copy of the certificate is available upon request and where one can be obtained, must be posted in each elevator.

AUTH: 50-60-203, 50-60-705, 50-60-711, MCA

IMP: 50-60-103, 50-60-211, 50-60-706, 50-60-711, 50-60-715, MCA

REASON: It is reasonably necessary to adopt NEW RULE III to describe the Department's responsibility to inspect elevators and to detail how the Department will regulate elevators that are out of compliance with the code adopted in NEW RULE I, in order to implement the provisions of Chapter 303, Laws of 2005 (Senate Bill 412).

The fees in this rule are the same as the Bureau has previously charged for inspection of elevators. The only change concerns freight elevators, which are now required to be inspected every two years. Prior to passage of SB412 in 2005, freight elevators were inspected every three years.

There are 371 elevators in Montana that are inspected every year at \$70 per inspection (\$25,970 annually), 1669 elevators that are inspected every year at \$100 per inspection (\$166,900 annually) and 137 freight elevators that are charged \$70 per inspection (\$9,590 every two years). The Department anticipates additional freight elevators will be added to the program as they are found, and estimates there could be as many as 400 additional freight elevators in Montana; the additional 263 freight elevators would be inspected every two years at \$70 per inspection (\$18,410 every two years). There are no data to show the number of duplicate certificates issued. The Department estimates that it receives approximately 30 requests per year for duplicate certificates at \$10 each (\$300 per year). The Department estimates that approximately 263 persons will be affected per biennium, for a total of approximately \$18,410 in additional revenue for the Department. Currently there are no licensed private elevator

inspectors in Montana, and the Department does not expect that situation to change in the near future. However, while the department estimates that no persons will be charged the \$10 fee, it lists the fee to put the public and industry on notice of the estimated administrative cost of processing private sector condition reports, as described in NEW RULE VIII (2)(e).

The Department estimates the total biennial revenue of \$404,340 under this rule, for an average for \$202,170 per year. The Department estimates that approximately 2000 persons will be affected by this rule, due to the fact that some persons own more than one elevator.

This rule also addresses how the Department will regulate elevators that do not comply with this code or that have serious safety violations. It is necessary to address these situations as a means of preventing injuries or deaths due to operation of unsafe elevators.

Section (10) of this rule requires elevator owners to post certificates of inspection in a conspicuous place inside the elevator to inform passengers that the elevators they use have been inspected by the Department and are safe.

NEW RULE IV REINSPECTION - FEE (1) Reinspection may be required when deficiencies discovered during regular inspections are of such a nature that, in the department's opinion, the deficiencies must be corrected before the next annual inspection. The department alone shall make this determination.

(2) When reinspections are required by the department, the owner shall be charged a fee equal to one-half the original annual inspection fee provided for in [NEW RULE III].

(3) When reinspections are requested by the elevator owner, the elevator owner shall be charged a fee equal to the regular inspection fee provided for in [NEW RULE III] for the type of equipment being inspected.

(4) The plan review and permit fee also covers the cost of the initial inspection performed when installation is complete. If an installer requests an inspection on a new or modified installation and the inspector determines the installation is not complete and ready for inspection at the time of the initial inspection, the department may assess the installer an additional inspection fee equal to the annual inspection fee for that type of conveyance. In addition to the inspection fee, the department may charge \$45 per hour for travel time to and from the inspection site. Fees must be submitted to the department before subsequent inspections will be performed.

AUTH: 50-60-203, 50-60-705, 50-60-711, MCA

IMP: 50-60-103, 50-60-201, 50-60-211, 50-60-705, 50-60-711, MCA

REASON: It is reasonably necessary to adopt NEW RULE IV to address reinspection under varying circumstances and the fees

to be charged for such inspections, in order to implement the provisions of Chapter 303, Laws of 2005 (Senate Bill 412). Sections (1) and (2) address inspections required by the department when a violation is found that is of a serious nature and must be reinspected to ensure it was corrected to the Department's satisfaction. In this case the elevator owner is charged one half of the regular inspection fee since the Department is requiring the inspection for safety's sake and the inspector is most likely in that inspection area and doesn't have to travel to do the reinspection.

Section (3) addresses a reinspection requested by the elevator owner. The full inspection fee of \$100.00 is charged since the inspection is being performed at the request of the elevator owner.

Section (4) addresses inspections performed on alterations and new installations. When an installation or alteration is complete the installer is to call for an inspection before putting the elevator into service. The Department has run into situations where installers have called for an initial inspection only to find that the unit is not complete or ready for inspection. Because these elevators are often times outside of the regularly scheduled inspection area the inspector may drive several hours only to find the inspection cannot be performed. The Department has developed this rule and inspection fee to deter installers from calling for inspection prematurely.

The Department estimates that it will perform approximately 15 reinspections a year, and that the number of persons directly affected by the rule will be slightly smaller than the number of reinspections. The Department estimates that approximately \$1,000 in revenue will be generated a year from reinspections. The Department does not have a basis for estimating the number of persons affected by the \$45 per hour travel time charge, nor the annual revenue that will be generated by those charges. The Department hopes that the number persons affected by travel time charges will be minimal.

NEW RULE V INSPECTION INTERVAL EXTENSION (1) With the approval of the owner, the department may extend the inspection interval to 18 months for elevators that have no outstanding violations or operational problems in order to provide for more efficient scheduling of inspections. The department will issue a provisional certificate of inspection to the owner to cover the period of extension.

(2) Inspection intervals will not be extended so that an elevator is not inspected during any given year.

AUTH: 50-60-203, 50-60-705, MCA

IMP: 50-60-103, 50-60-201, 50-60-705, 50-60-711, MCA

REASON: It is reasonably necessary to adopt NEW RULE V in order to allow state elevator inspectors to schedule their inspection areas in such a way that all elevators within a

certain area will be due for inspection at the same time. Currently each inspection area has a number of elevators that are due for inspection several months after the due date of the majority of elevators in that area. By allowing an extension on the inspection of those elevators with a different inspection date the inspector will be able to move their inspection date to fall in to the same time period as the other elevators in the area.

NEW RULE VI ACCIDENTS (1) When a permanently installed conveyance is involved in an accident causing injury or death, such accident must be reported to the department within 72 hours. The department may then cause the site of the accident to be inspected, the cause of the accident to be determined, and if necessary, require corrective action.

AUTH: 50-60-203, 50-60-705, MCA

IMP: 50-60-103, 50-60-201, 50-60-211, 50-60-705, 50-60-711, MCA

REASON: It is reasonably necessary to adopt NEW RULE VI to ensure that the Department is aware of elevator and lift accidents that occur within the State's jurisdiction. In the interest of public safety, the Department should investigate the elevator or lift as soon as possible to help determine the cause of the accident and the condition of the device. By promptly investigating accidents, the Department believes that it is more likely that potential future accidents of a similar nature can and will be prevented.

NEW RULE VII MODIFICATIONS, APPEALS AND VARIANCES

(1) Any violation of or noncompliance with any provision of Title 50, chapter 60, MCA, these rules, or orders of the department are cause for the suspension or revocation of a certificate of inspection issued pursuant to statutes or rules, after a hearing.

(2) Any person aggrieved by an order or decision of the department or who desires to request a variance to a department order or decision may request and shall be granted a hearing on the matter as provided by 50-60-206, MCA. Such person shall file with the department a written petition requesting such hearing, and set forth a brief statement of the grounds for the request.

AUTH: 50-60-203, 50-60-705, MCA

IMP: 50-60-201, 50-60-206, MCA

REASON: It is reasonably necessary to adopt NEW RULE VII to explain the consequences of not complying with the requirements of 50-60-704 through 50-60-720, MCA, and thus implementing Chapter 303, Laws of 2005. The most common noncompliance problem experienced by the Department is uncorrected violations. The Department currently lists 183 elevators with 554 violations. Elevator owners have 90 days

to correct the violations noted during an inspection before further action is taken to encourage them to comply. NEW RULE VII also advises elevator owners of their right to a hearing should they disagree with a decision made by the Department.

NEW RULE VIII INSPECTIONS BY LICENSED PRIVATE INSPECTORS

(1) The department shall accept inspections by licensed private elevator inspectors of permanently installed hoisting and lowering mechanisms equipped with a car or platform, which move between two or more landings, including but not limited to:

- (a) elevators, platform lifts and stairway chair lifts;
- (b) power driven stairways and walkways for carrying persons between landings, including but not limited to:
 - (i) escalators; and
 - (ii) moving walks;
- (c) hoisting and lowering mechanisms equipped with a car, which serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car, including but not limited to:
 - (i) dumbwaiters;
 - (ii) material lifts and dumbwaiters with automatic transfer devices; and
- (d) automatic guarded transit vehicles on guideways with an exclusive right-of-way including, but not limited to, automated people movers.

(2) Each installation must be inspected at least once every 12 months, except that freight elevator inspections must be conducted at least every two years.

(a) A detailed report of each unit inspected must be filed with the department within 14 working days after the inspection is completed on a form approved by the department. Such report must list all failures of the installation specific in reference to the code requirements of Chapter 30 of the International Building Code, and the state elevator code.

(b) A certificate of inspection must be issued by the department upon receipt of the report of the licensed elevator inspector that the unit is in an acceptable state of repair for receiving certification, and after the inspection fee has been paid to the department.

(c) Licensed private elevator inspectors shall attempt to secure compliance with the department's rules. If unsuccessful, inspectors shall so report to the department. If it then becomes necessary for the department to make an inspection, the fee for inspecting each permanently installed hoisting and lowering mechanism will be charged to the owner as per other inspections made by the department, as provided in [NEW RULES III and IV].

(d) The department may inspect any installation, which has been or will also be inspected by a licensed private elevator inspector. Whenever the department inspection confirms that a licensed private elevator inspector's inspection report is substantially or materially incomplete,

invalid, or otherwise unacceptable, the department may assess that licensed private elevator inspector the fee for inspection by the department, as provided in [NEW RULES III and IV].

(e) The owners of units inspected by licensed private elevator inspectors shall be charged \$10 by the department. This charge covers receiving and processing the condition report for each individual piece of equipment in a building and for issuing a certificate of inspection for that equipment if the licensed private elevator inspector doing the inspection certifies to the department that there are not any deficient conditions or that all deficient conditions noted in the condition report have been corrected and that a follow-up inspection by the department is not necessary.

(3) Whenever the department has reason to believe the conduct of a licensed private elevator inspector has been unprofessional, as provided in 37-1-410, MCA, the department will report that information to the bureau of professional and occupational licensing for further investigation.

AUTH: 50-60-705, 50-60-711, MCA

IMP: 50-60-201, 50-60-211, 50-60-711, 50-60-715, MCA

REASON: It is reasonably necessary to adopt NEW RULE VIII in order to comply with the requirements of 50-60-711(2), MCA, which allows elevator inspections to be made by private licensed inspectors, and thus the rule implements the provisions of Chapter 303, Laws of 2005. Accordingly, it is also necessary to establish the fees charged by the department to issue the certificate of inspection on elevators inspected by private licensed elevator inspectors, and to describe how the department will handle unacceptable conduct of inspection by these inspectors. Currently no elevators are inspected by inspectors other than those employed by the department, and the department has no reason to believe that situation will change in the foreseeable future.

NEW RULE IX AUTHORITY FOR TEMPORARY CONNECTIONS

(1) Temporary power supply connections may be performed under the authority of power supplier limited service certificates.

(2) Power supplier limited service certificates ("service certificates") are four part forms created and provided by the department to consumers and power suppliers in Montana. These service certificates may be used to allow power suppliers to energize electrical services in Montana prior to obtaining an electrical permit and prior to inspection and approval of electrical service installations by department inspectors.

(3) Service certificates may be used only for the following purposes:

(a) to restore power to a structure for repairs after a fire, accidental damage, or natural disaster;

(b) to restore power to a mobile home to prevent damage due to freezing conditions or to prevent loss of frozen or refrigerated food items after relocation of a mobile home;

(c) to restore or establish power to a structure where power must be available to maintain conditions or equipment directly related to home health care; or

(d) to restore or establish power in situations where failure to do so would imminently and directly jeopardize real or personal property, or human life or safety.

(4) Power suppliers must be in receipt of a completed service certificate or ensure one is completed by a prospective consumer prior to or immediately coincidental with making temporary electrical connections to supply power.

(5) Power suppliers must present a copy of completed service certificates to the area electrical inspector or his supervisor within five days, excluding weekends and holidays, of the issue date of the date that temporary power was supplied, whichever is later.

(6) As provided by 50-60-605, MCA, no temporary electrical connection made in accordance with this rule may remain in effect longer than 14 days. If the 14 day time limit lapses without the consumer obtaining an appropriate permit from the department and presenting it to the power supplier, the power supplied under the authority of the service certificate must be disconnected by the power supplier no later than 72 hours following expiration of the 14 day period.

(7) Subject to the administrative (contested case) procedures set forth in the Montana Administrative Procedure Act, a power supplier that neglects, refuses, or fails to comply with the provisions of this rule and 50-60-605, MCA, shall forfeit the ability to utilize service certificates.

AUTH: 50-60-203, 50-60-603, MCA

IMP: 50-60-201, 50-60-603, 50-60-604, 50-60-605, MCA

REASON: There is reasonable necessity to adopt this rule, in conjunction with the repeal of ARM 24.301.471, to clarify the proper use of a power supplier limited service certificate. Power supplier limited service certificates have not always been utilized properly, so the proposed new rule is intended to better explain their proper use, as well as to clarify the power suppliers' responsibilities when issuing them. In the past some power suppliers have issued power supplier limited service certificates to a customer and have not turned off the installation or made sure the customer applied for a permit within the 14-day period referred to in section (6) of this rule. This misuse of the certificate increases the probability of electrical installations being energized without proper permits and safety inspections.

5. The rules proposed for repeal are as follows:

24.301.471 TEMPORARY ELECTRICAL CONNECTIONS found at ARM page 24-31409.

AUTH: 50-60-605, MCA
IMP: 50-60-605, MCA

REASON: There is reasonable necessity to repeal ARM 24.301.471 to coordinate with the adoption of NEW RULE IX.

24.301.601 INCORPORATION BY REFERENCE OF ELEVATOR CODE found at ARM page 24-31973.

AUTH: 50-60-203, 50-60-701, 50-60-702, MCA
IMP: 50-60-203, 50-60-701, 50-60-702, MCA

24.301.612 REINSPECTION found at ARM page 24-31999.

AUTH: 50-60-203, 50-60-702, MCA
IMP: 50-60-203, 50-60-701, 50-6-702, MCA

24.301.613 CERTIFICATES OF INSPECTION found at ARM page 24-31999.

AUTH: 50-60-203, 50-60-702, MCA
IMP: 50-60-203, 50-60-701, 50-60-702, MCA

24.301.614 ACCIDENTS found at ARM page 24-32001.

AUTH: 50-60-203, 50-60-702, MCA
IMP: 50-60-203, 50-60-701, 50-60-702, MCA

24.301.615 VIOLATIONS, APPEALS AND VARIANCES found at ARM page 24-32001.

AUTH: 50-60-203, 50-60-702, MCA
IMP: 50-60-203, 50-60-206, 50-60-701, 50-60-702, MCA

24.301.621 CERTIFICATION OF MAINTENANCE AND INSURANCE COMPANIES AS INSPECTORS found at ARM page 24-32017.

AUTH: 50-60-203, 50-60-702, MCA
IMP: 50-60-203, 50-60-702, MCA

24.301.622 INSPECTIONS BY CERTIFIED MAINTENANCE OR INSURANCE COMPANIES found at ARM page 24-32018.

AUTH: 50-60-203, 50-60-701, 50-60-702, MCA
IMP: 50-60-203, 50-60-701, 50-60-702, MCA

REASON: It is reasonably necessary to repeal the above rules in order to implement the provisions of Chapter 303, Laws of 2005 (Senate Bill 412). Senate Bill 412 repealed all existing statutes related to the elevator program. By repealing all rules associated with the elevator program and proposing new

rules, it will be easier to distinguish which statutes were in place prior to and after the changes made by Senate Bill 412 when researching elevator issues.

6. Concerned persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Tim Lloyd, chief of the Building Codes Bureau, at P.O. Box 200517, Helena, MT 59620-0571, by facsimile to (406) 841-2050, or by e-mail to tcollett@mt.gov, and must be received no later than 5:00 p.m., November 28, 2005.

7. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at <http://www.buildingcodes.mt.gov>. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. The Department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the mailing list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding any specific topic or topics over which the Department has rulemaking authority. Such written request may be delivered to Mark Cadwallader, 1327 Lockey St., room 412, Helena, Montana, mailed to Mark Cadwallader, P.O. Box 1728, Helena, MT 59624-1728, faxed to the office at (406) 444-1394, by e-mail to mcadwallader@mt.gov, or made by completing a request form at any rules hearing held by the Department of Labor and Industry.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

10. The Department's Hearings Bureau has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER
Mark Cadwallader
Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State October 17, 2005